

JUDGE ENGELMAYER

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

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CAMOFI MASTER LDC AND
CAMHZN MASTER, LDC,

Plaintiffs,

14 CV 4341
Case No.

v.

U.S. COAL CORP., EAST COAST MINER, LLC,
JAD COAL COMPANY, INC.,

Defendants

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U.S. COAL CORP. and JAD COAL COMPANY,
INC.,

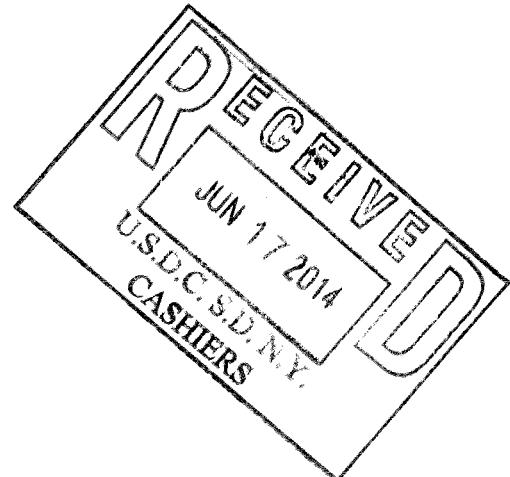
Counterclaim Plaintiffs,

v.

CAMOFI MASTER LCD, CAMHZN MASTER,
LDC and CENTRE COURT MANAGEMENT, LLC,

Counterclaim Defendants.

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NOTICE OF REMOVAL

PLEASE TAKE NOTICE that Defendants and Counterclaimants U.S.Coal Corporation and JAD Coal Company, Inc., ("Alleged Debtors-Defendants") hereby remove the civil action entitled *CAMOFI Master LDC and CAMHZN Master, LDC v. U.S. Coal Corp., East Coast Miner, LLC, JAD Coal Company, Inc., Index No. 650411/2012*. (the "State Court Action") from Supreme Court of New York County, New York, New York, where it is now pending, to the United States District Court for the Southern District of New York. This removal is based on 28 U.S.C. § 1452(a) and Rule 9027 of the Federal Rules of Bankruptcy Procedure. In support of removal, Alleged Debtors-Defendants respectfully shows as follows:

1. On or about May 20, 2014, a petition commencing a bankruptcy case against Alleged Debtor Defendant JAD Coal Company, Inc. was filed and is now pending before the United States Bankruptcy Court for the Eastern District of Kentucky. The Chapter 11 case is designated as Case No. 14-60676. A true copy of the Petition is annexed hereto as Exhibit A.

2. On or about June 10, 2014, a petition commencing a bankruptcy cases against Alleged Debtor Defendant U.S.Coal Corporation was filed and is now pending before the United States Bankruptcy Court for the Eastern District of Kentucky. The Chapter 11 case is designated as Case No. 14-51461. A true copy of the Petition is annexed hereto as Exhibit B.

3. At the time of the commencement of the Chapter 11 cases and until the filing of this Notice of Removal and the filing of a copy of this Notice of Removal with the State Court, this action was pending before the Supreme Court of New York County, New York, New York.

4. 28 U.S.C. § 1452(a) provides that a “party may remove any claim or cause of action in a civil action other than a proceeding before the United States Tax Court or a civil action by a governmental unit to enforce such governmental unit’s police or regulatory power, to the district court for the district where such civil action is pending, if such district has jurisdiction of such claim or cause of action under section 1334 of this title.”

5. This State Court Action, including all claims and causes of action asserted therein, is a civil action other than a proceeding before the United States Tax Court; and it is not a civil action by a governmental unit to enforce such governmental unit’s police or regulatory power.

6. 28 U.S.C. § 1334 provides that district courts shall have original jurisdiction of all civil proceedings arising under Title 11 [of the Bankruptcy Code], or arising in and related to cases under Title 11.

7. The State Court Action is a civil proceeding that is directly related to a Chapter 11 bankruptcy case. In the State Court Action, it is asserted that Alleged Debtors-Defendants are liable to plaintiffs for alleged breach of certain contracts with plaintiffs while defendant East Coast Miner, LLC is alleged to have tortuously interfered with contractual relations with respect to the same contracts. All of plaintiffs' claims against all of the defendants arise out of and/or relate to the same events. Thus the claims relating to all defendants are so intertwined that they should be decided in one forum. Given the nature of the allegations at issue, the outcome of the State Court Action could alter the Alleged Debtors-Defendants' rights and liabilities, and the handling and administering of the its estate.

8. Removal to this Court is proper under 28 U.S.C. § 1452(a) because the Southern District of New York is the district within which the State Court Action was pending prior to removal.

9. Pursuant to 28 U.S.C. § 157, this proceeding is a core proceeding under Title 11 of the United States Code.

10. This Notice of Removal is timely. It is filed less than ninety (90) days after the order for relief and, alternatively, within the time limits prescribed by Rule 9027(a)(2) of the Federal Rules of Bankruptcy Procedure.

11. In accordance with Rule 9027(a)(1), a copy of all pleadings served upon Debtors-Defendants in the State Court Action is attached hereto as Exhibit C.

12. Pursuant to Rule 9027(c) of the Federal Rules of Bankruptcy Procedure, a copy of this Notice of Removal is being filed with the clerk of the State Court and served on all parties to the State Court Action. A true copy is attached hereto as Exhibit D.

WHEREFORE, notice is hereby given that this action is removed from the Supreme Court of New York County, New York, New York to the United States district Court for the Southern District of New York.

Dated: New York, New York
June 17, 2014

NIXON PEABODY LLP

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